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Ashland, WI., 54806

Kim Bouchard, Superintendent
Great Lakes Agency
Bureau of Indian Affairs
916 Lakeshore Drive West
Ashland, WI. 54806

March 10, 2010

Dear Ms. Bouchard,

We are enrolled members of the Bad River Band of Lake Superior Indians. We have serious concerns regarding the fiscal management of past and present tribal administrations. On March 17, 2008, we met with the former Superintendent, Diane Rosen to address these concerns. Although there were monitoring visits made by BIA personnel, the problems were never resolved and we now find that some of these same problems have escalated & created great financial burdens for our Tribe. Pursuant to the Tribe's Constitution and Corporate Charter, the Bureau of Indian Affairs has Secretarial oversight. This responsibility has been sorely neglected and as a result, has created:

- 1.) failure to ensure the Tribe's submission of an annual Indirect Cost Proposal, which has resulted in the Tribe not having an approved IDC rate since 2005.
- 2.) failure to ensure that the Tribe has submitted timely annual audits. The FY2005 audit that we gave to Ms. Rosen on 3/17/08 was submitted. The FY2006 and FY2007 were completed sometime in late 2009. The FY2008 has recently been completed, however, the Tribal Council has yet to meet with the Auditor before the Members are allowed to see this audit.
- 3.) failure to ensure that the required financial reports & annual audits of all Tribal Enterprises were submitted per the Corporate Charter.
- 4.) failure to ensure that the Membership had a referendum on the off reservation gaming issue for Beloit Casino Project, per the Corporate Charter.
- 5.) failure to ensure corrective action in regard to the multiple audit findings, most of which were **unresolved findings, year after year.**
- 6.) failure to adhere to the Tribe's Constitution & Charter in regard to the mortgaging of tribal lands.
- 7.) failure to ensure that loans, per the Corporate Charter, are reviewed & approved by the Bureau of Indian Affairs.

These failures, along with the practices of the Tribe's accounting department, have led to a financial nightmare for our Tribe. In March of 2008 we brought issue with the Tribe's co-mingling of funds. We discussed the Tribe's practice of using grant and contract awards for purposes other than its intent. We questioned the use of grant & contract funds to purchase certificates of deposits that were then used as collateral for loans that are still unknown.

Last week, the Tribal Chairman/Executive Director, Michael Wiggins, Jr., revealed that

the Internal Revenue Service was here because the 2007 employee taxes were not paid. When he questioned the Accounting Department Head, Bonita Greene (also Council Member) stated that the taxes weren't paid because the funds were used to make payroll. He used the appropriate term "vampirism of the accounts to make payroll," in reference to the accounting department's practices to fund the IDC pool & Administration's payroll. We are aware of at least two major loans obtained to make payroll. The auditor states that there was little or no documentation for the Tribe's long term debt. The accounting department has been using any available funds to support the IDC and administration's expenses.

Attached, is a brief summary of audits for FY2005 to FY2007. Upon careful review, we note significant amounts of funds transferred from our Casino Enterprise into the General Account. We note the significant amounts of doubtful accounts; in 2005, the Tribe had set aside \$40,000 for bad checks that they felt the Tribe would not collect for the tribal grocery store. The amount of bad debt later included the propriety fund & a special revenue. The Tribe's bad debt went from \$40,000 to \$713,000. The Tribe has substantial amounts for IDC. This IDC problem had escalated from a deficit of \$311,047 in FY2005 to a deficit of \$717,877 in FY2007. We are sure that by now this deficit has probably doubled for the proceeding fiscal years. The acceptance of grant and contract awards & charging the IDC rate, then not expending the awarded funds (on the books given for auditing purposes) has been very suspicious. These funds were spent in the co-mingling/internal transfers made by the accounting department and not paid back so that the program expenditures could be properly paid. On the books it looks like we received the funds but didn't expend any of the money when in fact, the accounting department "vampirized" these funds and the Tribe could not pay it back within the fiscal year, making it look like we have excess money to carry over to the next fiscal year. We believe this practice is fraudulent & has caused a tremendous financial hardship for the Tribe. We expect that this practice should cease immediately as it is robbing from both the grant/contract funds AND the Enterprise revenues that have restrictions on how this revenue is to be managed, per the Corporate Charter. Further, we expect the Bureau of Indian Affairs to act immediately to address this serious situation, per the fiduciary responsibilities outlined in the Tribal Constitution & Corporate Charter.

The past Treasurer, Bernard Lemieux reported that the Tribe had stacks of checks made out & vouchers for payment totaling approximately \$2.2 million dollars (in early 2008). The accounting department could not disperse the checks because the Tribe did not have the money in the accounts. Furthermore, he stated that if all the funding sources were to check the bank balances, they would find that the money wasn't there, it was spent on other things. In 2008 he also reported that the BIA was involved in monitoring visits. He told the Membership that the Office of Inspector General was also investigating the Tribe's accounting department. He reported that everything must be alright because they concluded the investigation & found nothing wrong. In 2009, Treasurer Lemieux reported that the FY2007 was held up because the auditor found a second payroll account. He also reported that the Manpower Account was frozen because of financial mismanagement.

Because the Tribe has been operating without an approved IDC rate, they have been “vampirizing accounts” to pay their wages. They deliberately gave false information on the audits. The audit does not reflect the hidden account made for the Beloit Casino Project. This account involves millions of dollars from our Tribal Casino that was **not** audited. Membership has questioned many of the financial reports. It has become evident that our financial reports are far from accurate. We note the huge carry-over funds from programs that our needy Members most definitely should have benefited from. There had been a huge carry-over balance of over \$280,000 in the TANF Program last year. The accounting department misappropriated the funds & could not replace the money. On the books, the funds are carried over from the prior year. The Tribe had a waiting list of Members seeking assistance. This program should have never had carry-over funds. Our people are not receiving the services from the programs because the accounting department has “vampirized” the funds.

The audits reflect that the Amnicon Bay lease for the Madeline Island property was \$78,446 annually. The audits reflect that the Tribe did not receive payments for some years. The former Tribal Attorney, Susan Aasen, reported that the Amnicon Bay paid the Tribe \$94,500 annually. This lease is to be negotiated every five years. In 2009, the attorney reported that the last time it was negotiated was in 1992 (see attachments). At the February 2010 meeting, Bonita Greene, Accounting Department Head & Council Member reported that the Tribe received around \$100,000 in August from Amnicon Bay Developers. At the March 2010 Council meeting, Members were informed that Bonita Greene had held onto a check from Amnicon Bay for six months. This check was over \$100,000. This action of not depositing the check is suspicious, especially given the conflicting amounts that the Tribe recorded as receiving or not receiving payments from Amnicon Bay Developers.

We believe the accounting department’s practices are fraudulent & must cease immediately. This department has been robbing the funds that should provide needed services for our people AND they have robbed from the Shareholders’ Enterprise funds. They have deliberately misappropriated funds to provide for themselves. We feel that there is a total lack of accountability & that the Bureau of Indian Affairs must take responsibility in this matter as they were given notice of the accounting department’s questionable activities back in 2008. This activity should have been resolved at that time. The Tribe is now facing huge deficits & we find that multi-million dollar hidden accounts were not included in the audits. We feel this is a result of the inaction of the BIA in regard to the fiduciary obligations per the Tribe’s Constitution and Corporate Charter. Again, we are requesting that the BIA intervene and provide the technical assistance and support necessary to correct this horrendous situation.

Respectfully,

Thomas Deragon, Sr.,
Bad River Tribal Member

Sandra Deragon
Bad River Tribal Member

Cc Michael Wiggins, Jr., Bad River Tribal Chairman

Diane Rosen, Regional Director
Larry Echohawk, Assistant Secretary, Department of Interior
Ken Salzaar, Secretary of Interior
Gerry Gidner, Director of Indian Affairs
John Gerber, Regional Director, NIGC
Wizipen Garriott, Presidential Appointee
Earl Devaney, Executive Director, Office of Inspector General, U.S. Dept of Interior

AUDIT INFO FY2005 - FY2008

NET ASSETS:

FY 05: \$12,282,964
FY 06: \$11,311,705
FY 07: \$10,775,472
FY 08: \$12,415,795

CHANGE IN NET ASSETS:

(-\$971,259)
 (-\$536,233)
 (\$1,640,323)

ENTERPRISES NET ASSETS:

FY 05: \$10,069,498
FY 06: \$11,146,723
FY 07: \$11,146,277
FY 08: \$10,757,013

TOTAL LIABILITIES:

	<u>Governmental</u>	+	<u>Enterprises</u>	=	<u>TOTAL</u>
<u>FY 05:</u>	\$10,027,380		\$4,157,645		\$14,185,025
<u>FY 06:</u>	\$11,146,723		\$3,666,464		\$14,840,229
<u>FY 07:</u>	\$10,872,827		\$3,151,836		\$14,024,663
<u>FY 08:</u>	\$11,509,728		\$2,561,392		\$14,071,120

Noted by Auditor that there is little or no documentation of long-term debt. We don't know about all the loans obtained by poll votes or Executive Sessions. Included in one loan was an increase in the amount of tribal lands up for mortgaging. Original acreage was 23,000; the last reported amount of encumbered tribal lands was approximately 30,000 acres. We don't know what or where the money went from the loans they made.

CASINO REVENUE TRANSFERRED INTO GENERAL ACCOUNT:

FY 05: (\$13,163,624)
FY 06: (\$3,818,218)
FY 07: (\$4,278,853)
FY 08: (\$4,633,046)

DOUBTFUL ACCOUNTS:

	<u>General Fund</u>	+	<u>Proprietary Fund</u>	+	<u>Special Revenue</u>	=	<u>TOTAL</u>
<u>FY 05:</u>	\$40,000						\$40,000
<u>FY 06:</u>	\$40,000		\$263,319				\$303,319
<u>FY 07:</u>	\$40,000		\$297,753		\$375,551		\$713,304
<u>FY 08:</u>	\$98,679		\$625,312		\$648,229		\$1,372,220

DEFERRED REVENUE (Federal award monies received in advance of qualifying expenditures being incurred)

FY 05: (\$2,646,850)

AUDIT INFO FY2005 - FY2008

FY 06: (\$3,028,452)

FY 07: (\$895,986)

FY 08: (\$2,674,419)

AMNICON BAY LEASE Began in 1967. Last amendment was 1992. This is Madeline Island, expensive lakefront property, leased by Amnicon Bay, developers with condos. Fair market value certainly would have increased since 1992. For years 2005 - 2008, the Tribe did not receive payment for two of the four years. Members questioned the issue of non-payment & Chairman Bigboy stated that he negotiated with Amnicon Bay. He said he negotiated a lower rate and they were paid up. He refused to answer questions of why he'd agree to less money when the land is much more valuable than the old rate and besides these developers were breaking the lease agreement by poor septic system and not

fixing the septic problem. Members wanted the Tribe to terminate the lease (2008).

FY05: \$78,446

FY06: -0-

FY 07: \$78,446

FY 08: -0-

At the February 2010 Council meeting, Bonita Greene said that the Tribe receives over \$100,000 annually, based on a current appraisal.

INTERNAL FUND SERVICE - INDIRECT COSTS

FY 05: (\$311,047)

FY 06: (\$577,476)

FY 07: (\$717,877)

FY 08: (\$1,512,640)

SINKING FUND BALANCE: (\$10,600 weekly since 2003; \$65,000 Quarterly Principle)

FY 04: \$ 26,289

FY 05: \$213,879

FY 06: \$255,141

FY 07: \$314,458

FY 08: \$453,762

Should be depositing \$551,200 each year. From 2005 to 2008, there should be \$2,204,800 PLUS the amounts from 2003 & 2004. What happened to the money?

MATERIAL ADJUSTMENTS - ENTERPRISE

FY 05: \$1,425,809

FY 06: \$1,522,823

FY 07: \$1,050,987

FY 08: \$ 997,454

AFTER REVIEW OF THESE AUDITS, IT DOES NOT INCLUDE THE OFF RESERVATION BELOIT CASINO PROJECT WITH THE ENTERPRISES. IS THIS WHAT IS CALLED A HIDDEN ACCOUNT? WHY WASN'T THIS ENTERPRISE AUDITED? ALTHOUGH THIS ACCOUNT WAS ESTABLISHED OVER TEN

YEARS AGO, MEMBERSHIP BECAME AWARE OF THIS ACCOUNT AT THE FIRST & ONLY MEETING ON THE BELOIT CASINO PROJECT IN JANUARY 2010. LOOKING AT THE BELOIT FINANCIAL REPORT, THE CASINO FUNDED \$1,444,505.66 AND THE GENERAL ACCOUNT \$431,069.29 FOR A TOTAL BUDGET OF \$1,875,574.95. THIS FINANCIAL REPORT WAS PROVIDED BY CHAIRMAN WIGGINS AT THE 1/10 BELOIT MEETING. NOW, WE ARE TOLD THE FIGURES ARE WAY OFF. SENIOR ACCOUNTANT BONITA BIGBOY GREENE (ALSO COUNCIL MEMBER) PREPARED THE REPORT IN HASTE.

BESIDES COUNCIL STIPENDS FOR TRIBAL COUNCIL MEETINGS, CASINO MEETINGS, OFF RESERVATION GAMING MEETINGS, SOME COUNCIL MEMBERS HAD CREDIT CARDS ISSUED TO THEM IN THE TRIBE'S NAME, IS THIS STILL A PRACTICE? WHO HAS CREDIT CARDS?

COUNCIL MEMBERS RECEIVE STIPENDS, SOME RECEIVED GRATUITIES/LODGE ROOM COMPS, ETC., MEMBERSHIP WOULD LIKE TO KNOW THESE EXPENSES.

RECYCLING/WASTE MANAGEMENT DID NOT INCLUDE REVENUE FOR SCRAPMETAL?

THE AUDITOR STATES THERE IS LITTLE OR NO DOCUMENTATION ON LONG-TERM DEBT. WE HAVE NOT BEEN ABLE TO RECEIVE ACCURATE INFORMATION ABOUT THE CERTIFICATES OF DEPOSITS. MOST, IF NOT ALL, WE'RE TOLD, ARE RESTRICTED OR COLLATERALIZED FOR LOANS THE TRIBE OBTAINED. WE ARE NOT SURE OF HOW MUCH THE LOANS ARE FOR & WHAT THEY WERE USED FOR.

AT THE FEBRUARY 2010 TRIBAL COUNCIL MEETING , BONITA BIGBOY GREENE ARGUED THAT THE ACCOUNTING DEPARTMENT WAS NOT CHARGING A 0.50 CENT FEE FOR EACH PAYROLL DEDUCTION, OTHERS PRESENT WANTED TO SHOW THEIR PAYSTUBS BUT CHAIRMAN WIGGINS SAID THEY COULD GO INTO THE OFFICE TO DISCUSS IT. SHE SAID THEY WEREN'T CHARGING FOR THE 401K PAYROLL DEDUCTIONS. OTHERS DIFFERED WITH HER. SEE WRITTEN POLICY. SEE COPY OF INDIVIDUAL'S CHECK. IF THEY WERE CHARGING 50 CENTS PER TRANSACTION PER WEEK FOR ALL EMPLOYEES, WHERE IS THIS AMOUNT RECORDED AS REVENUE?

@ FEBRUARY 2010 COUNCIL MEETING, BONITA GREENE DISCUSSED THE 401K PLAN. SHE SAID IT COSTS \$50,000 FOR THE TRIBE TO ADMINISTER THE PLAN BUT ONLY \$32,000 TO HAVE ANOTHER FIRM ADMINISTER THE PLAN. COUNCIL PASSED MOTION TO TERMINATE THE PLAN. THE TRIBE NEVER HAD AN AUDIT OF THE 401K PLAN & WILL BE DOING THIS SOON, PER BONITA GREENE.

AUDIT INFO FY2005 - FY2008

PLEASE REVIEW AUDITS FOR EACH TRIBAL ENTERPRISE. EXCEPT FOR THE CASINO, ALL SHOW HORRIFIC LOSSES. UNDER GROCERY STORE INVENTORY FOR 2008, IT SHOWS -\$4,582. LODGE SHOWS ONLY \$252 FOR INVENTORY.

MANY FINDINGS, MANY UNRESOLVED FINDINGS YEAR AFTER YEAR

PREVIOUS TREASURER REPORTED THAT THE LAND PURCHASE WAS BEING AUDITED. THE TRIBE HASN'T BEEN SETTING ASIDE THE FULL WEEKLY \$10,600 FOR THE SINKING FUND THAT WAS TO BACK THE BONDS ISSUED BY RED HORSE SECURITIES.